

**FINAL REPORT
OF THE
COUNTY GOVERNMENT
STUDY COMMISSION**



**Indiana Legislative Services Agency
200 W. Washington St., Suite 301
Indianapolis, Indiana 46204-2789**

November, 2001

INDIANA LEGISLATIVE COUNCIL

2001

Senator Robert Garton
Chairman
Columbus

Speaker John Gregg
Vice-Chairman
Sandborn

Senator Richard Young
Milltown

Representative Brian Bosma
Indianapolis

Senator Harold Wheeler
Larwill

Representative Mark Kruzan
Bloomington

Senator Joseph Harrison
Attica

Representative Dale Grubb
Covington

Senator Patricia Miller
Indianapolis

Representative William Cochran
New Albany

Senator Thomas Wyss
Fort Wayne

Representative Charlie Brown
Gary

Senator James Lewis
Charlestown

Representative Kathy Richardson
Noblesville

Senator Earline Rogers
Gary

Representative Richard Mangus
Lakeville

Philip J. Sachtleben
Executive Director
Legislative Services Agency

County Government Study Commission

Membership Roster

Senators

Becky Skillman
Bedford

Rose Ann Antich
Merrillville

Mark Blade
Terre Haute

Steven Johnson
Kokomo

John Catey
Richmond

Al Dillon
Richmond

Garland Ferrell
Lebanon

Frank Fritch
Tipton

Vernon Jewell
Columbus

Richard Jones
Jeffersonville

Doug Lechner
Franklin

Representatives

Tiny Adams
Muncie

Gloria Goeglein
Fort Wayne

Peggy Welch
Bloomington

Matthew Whetstone
Brownsburg

Raymond Lueken
Jasper

Jean Lushin
Kokomo

Bill Mansard
Terre Haute

Tom Rethlake
Columbia City

Tim Skinner
Terre Haute

Kelly Thompson
Logansport

Legislative Services Agency Staff

Chris Baker, Fiscal Analyst
James Jett, Staff Attorney

FINAL REPORT

County Government Study Commission

I. INTRODUCTION AND REASONS FOR STUDY

The Indiana General Assembly enacted legislation (P.L. 109 -1997 amended by HEA 1629-2001) directing the Commission to study the following:

- (1) How to improve the effectiveness and efficiency of county government by examining the functions and duties associated with all elected county officials and departments of county government. The Commission shall focus on how these functions and duties relate to the functions and duties of other elected county officials, departments of county government, and other state and local governmental entities.
- (2) The functions and duties of elected county officials and departments of county government that should be more clearly defined by statute to avoid disputes over allocation of power of county government.
- (3) The functions and duties of elected county officials and departments of county government that should be eliminated, altered, or reassigned to other elected county officials, departments of county government, or other state or local governmental entities.

II. SUMMARY OF WORK PROGRAM

The Commission met three times during the 2001 interim.

At its first meeting on August 27, 2001, the Commission reviewed the charge contained in P.L. 109-1997, discussed the history and work of the Commission, and reviewed the legislation introduced in the 2001 legislative session. The members of the Commission discussed possible topics for the Commission to discuss during the interim.

The Commission held its second meeting on September 25, 2001. The Commission discussed:

- 1) constitutionally limited elected county officials and the Public Employees' Retirement Fund (PERF);
- 2) the delineation of powers between the county commission and the county council;
- 3) elected offices in county government that have a delayed beginning of office, known as a "holdover" office; and
- 4) the assessing responsibility of townships and counties.

The Commission also heard testimony from the Indiana County Assessors Association, the Indiana Township Association, representative township assessors, the Indiana Farm Bureau, the Association of Indiana Counties, and from the Lincoln Land Institute.

The Commission held a third and final meeting on October 16, 2001. The Commission discussed:

- (1) Public Employment Retirement Fund (PERF) vesting for county elected officials;

- (2) Elected county government offices with a delayed beginning of term, also known as “holdover offices” including a historical perspective of the existence of such offices;
- (3) County employee positions and delineation of powers of the county council and the county commissioners;
- (4) Property tax assessment review by property owners; and
- (5) Adoption of the final report.

III. SUMMARY OF TESTIMONY

Testimony consisted of a series of presentations designed to inform and update the Commission on the following items:

- (1) Legislation introduced in the 2001 session of the General Assembly;
- (2) The delineation of powers over employee positions in county government;
- (3) The issue of holdover offices;
- (4) County elected officials with limited terms and the officials’ participation in PERF;
- (5) County Corrections Districts;
- (6) The assessing responsibilities of counties and townships; and
- (7) Review of property tax assessments by property owners.

This summary divides the testimony into the seven topics listed above and presents highlights of the testimony offered during Commission meetings.

The stating of a policy position or recommendation in this summary of the testimony does not signify either Commission support or disapproval of the matter. The narrative merely reflects a variety of ideas and positions presented to the Commission by persons addressing the Commission.

1) Legislation Introduced in the 2001 Session of the General Assembly

Vice Chairperson Representative Peggy Welch reviewed legislation from the 2001 legislative session pertinent to the Commission. Rep. Welch testified on the following bills:

HB 1627 - 2001: County Corrections. This bill passed the House, but was not heard in the Senate.

HEA 1629 - 2001: Renewal of Charge to the County Government Study Commission. The bill provided for the removal of the Lake County and St. Joseph County provision concerning the respective commissioners of these counties. Additionally, the bill added four lay members to the Commission. This bill passed both chambers of the General Assembly and was signed into law by the Governor.

HB 1630 - 2001: Included the recommendations made by the County Government Study Commission in 2000 for the Lake County and St. Joseph County government question. The bill did not receive a hearing.

Representative Welch questioned whether the Commission would wish to move for reintroduction of HB 1630 in the 2002 legislative session.

2) The delineation of powers over employee positions in county government

Concerns were raised on whether the authority lies with the county commissioners or the county council to pass an ordinance, approve contracts, and whether plan commissions should be able to contract on their own. A memorandum prepared by Legislative Services Agency was introduced discussing the question of delineation of powers. In addition, the issue of line item budgets was discussed. Concern was raised over the lack of feasibility for counties to itemize their budgets to any great detail. Potential reallocation of funds and flexibility in times of economic troubles would be unavailable to the county leadership with line item budgets. The disclosure that line item budgets provide is useful, but in times of fiscal crisis, flexibility is sometimes required.

During the third meeting, Representative Welch asked Mr. Bottorff if most counties already have personnel policies in place.

Mr. David Bottorff, representing the Association of Indiana Counties indicated most counties do have personnel policies in place; however, some counties rely on outside help to determine employee classifications.

Commission member Mr. Frank Fritsch described to the Commission the issue of delineation from the county sheriff's perspective.

Commission member Tim Skinner briefly listed an example of how Vigo County is currently set up. Mr. Tom Rethlake also provided an example.

3) Holdover offices

Mr. Travis Worl, Association of Indiana Counties, discussed the impact of holdover offices (offices where a newly elected person does not immediately take office and must wait to take office for a specified time period). Second, he mentioned the implementation of the new voting system improvement fund and his desire to see the Commission discuss how the fund will be used.

It was brought to the attention of the Commission that to change holdover office structure would require a resolution to pass both the House and the Senate in two consecutive legislative sessions. Attempts have been made before, however, unsuccessfully. A listing of the counties in Indiana that have holdover offices was provided by Legislative Services Agency. Further discussion ensued regarding the length of time on holdover offices.

Testimony from Mr. David Bottorff of the Association of Indiana Counties briefly described the background and origin of holdover offices. Confusion at election time was mentioned as a primary concern with holdover offices. Further testimony indicated a general consensus of addressing holdover offices at the local level.

A constitutional amendment would be required to establish a uniform set of starting dates for new office holders. An example was provided for review by Legislative Services Agency.

Mr. James Jett of the Legislative Services Agency and Staff Attorney for the Commission presented a memorandum prepared concerning this topic. The memorandum detailed historical case reference with regard to the origins of the holdover office. Mr. Jett's presentation provided historical detail on case law from the 1850's. He also discussed a specific case in 1887 addressing the issue of holdover offices. In conclusion, Mr. Jett iterated that a Constitutional amendment

would be required to change the succession structure of holdover offices.

4) County elected officials who are term limited and PERF

Mr. Al Dillon, Commission member and Wayne County Recorder, appealed the Commission to consider the carryover effect of the Public Employee Retirement Fund (PERF) with local elected officials. An example was provided of a local elected official who completed two four-year terms in a local government office. Currently, in order to qualify for a pension vestment, the official would be required to hold public employment in another capacity for two additional years.

As a result of the situation, the Commission discussed PD 3184 for consideration in the upcoming legislative session.

Legislative Services Agency Senior Fiscal Analyst James Sperlik distributed and briefly explained the fiscal impact statement prepared for PD 3258. He indicated only 334 people out of 90,000 plus employees in PERF would be affected by this proposal, or 0.03%.

5) County Corrections Districts

The Department of Correction was not in attendance at the third meeting of the Commission to provide expert testimony. Discussion ensued among the Commission Members, including testimony from Mr. David Bottorff, Association of Indiana Counties, during which he elaborated on the concern of counties to save cost and maintain current levies. The sharing of costs over more than one county would be beneficial to the counties involved and would save property tax dollars.

Chairperson Skillman reminded the Commission members that the county corrections district proposal was due in part to the Commission's past recommendation from the Coalition on Monitoring Public Efficiency and Tax Expenditures (C.O.M.P.E.T.E) Project.

Additional discussion ensued. Mr. Garland Ferrell, Commission member, expressed his support of the measure.

6) The assessing responsibilities of counties and townships

Ms. Judy Sharp, president of the Indiana County Assessors Association, provided an overview of the office of a township trustee with assessing duties from the perspective of the county assessor, and the problems that occur when township trustees have assessing duties.

Mr. Steve Buschmann, representing the Indiana Township Association, discussed claims that township trustees do not want to assess or have great difficulty with conflicts with their trustees' duties. Accordingly, the percentage of township trustees with assessing duties who are Level 1 or Level 2 assessors has been increasing.

Additional testimony from the public touched on other problems with the local property tax assessment structure, the need for more and better trained assessors, and current property tax manuals. There was testimony offered that equalization is not a substitute to current law.

No vote or action on this issue was taken by the Commission during the first two meetings.

7) Review of property tax assessments by property owners

Senator Skillman recognized Senator Steve Johnson to review a proposed draft concerning the mailing of notifications to property owners that describe how their property had been assessed. Senator Johnson, in describing the draft, mentioned two reasons for the proposed draft: 1) Most citizens in Indiana do not understand the assessing system. 2) The draft would provide an opportunity to homeowners to look at their property and how it is assessed.

Testimony was offered by the general public in attendance that focused on the following main themes:

- A) Additional mailings would incur greater cost to the township assessor. In townships with large numbers of property owners, it would be difficult to send out the additional mailings within the current time constraints.
- B) Sending the existing property tax card instead of a new form to the taxpayer, along with form 11's would accomplish the same result, particularly with small disputes. Such disputes can usually be corrected under the current structure of appeal.
- C) The question was raised if property tax information is being reported in a clear and understandable manner.
- D) Alternatives currently exist. Vanderburgh County currently lists property tax information on the County's website.

IV. COMMITTEE FINDINGS AND RECOMMENDATIONS

Finding One: PERF vesting of certain county elected officials

The Commission finds that county elected officials serving in constitutionally term limited offices should vest in the Public Employees Retirement Fund (PERF) after the completion of the terms allowed for their respective elected office.

Recommendation One: PD 3258 provides that a person serving as a county clerk, auditor, recorder, treasurer, sheriff, or coroner is vested in the public employees' retirement fund (PERF) after: (1) eight years of service in that office; or (2) ten years of service based on a combination of service as an elected county official and as a full-time employee in another covered position. PD 3258 also provides that a person who has served eight years as an elected county official is eligible for normal retirement at 65 years of age.

PD 3258 allows county elected officials serving in constitutionally term-limited offices to vest in the PERF after the completion of the terms allowed for their respective elected office. PD 3258 also accounts for situations involving a county elected official in a constitutional term-limited office who has earned PERF time as a public employee. PD 3258 was recommended to the General Assembly by a vote of 17-0.

Finding Two: A multi-county correctional district for the construction and operation of correctional facilities.

The Commission finds that the encouragement and use of a multi-county correctional district may address the significant costs on county budgets that counties face in constructing and operating a correctional facility.

Recommendation Two: PD 3265 allows two or more contiguous counties to create a corrections district to provide correctional facilities and correctional services for the area within the district. PD 3265 provides for administration of the district. PD 3265 allows the

district to impose a uniform tax rate levy on all property within the district. PD 3265 removes the tax levy for the corrections district from the ad valorem property tax levy limits imposed on civil taxing units.

PD 3265 was recommended to the General Assembly by a vote of 17-0.

Finding Three: Holdover offices.

The Commission finds that holdover offices among the constitutional county elected officials creates confusion for voters and county government.

Recommendation Three: Allow the General Assembly to correct the problem of holdover offices. JR 9201 permits the General Assembly to fix the dates for beginning terms of county officers in order to establish a uniform schedule of starting dates. This proposed amendment has not been previously agreed to by a General Assembly.

A joint resolution (prepared as JR 9201 for discussion purposes) should be introduced to begin the process of amending the Indiana Constitution. The amendment would allow the General Assembly to fix the date of election for constitutional county elected officials, thereby correcting the problem of holdover offices. The text of the joint resolution was approved 17-0.

Finding Four: Review of property tax assessments by property owners.

The Commission finds that providing additional information on property tax assessment would be beneficial to property owners. Particularly, having individual property owners review the details of the assessment of their property could lead to corrections before the necessity of an appeal, better communication with assessing officials, and better education on the property tax process for individual property owners.

Recommendation Four: The review and certification of property tax assessment information by property owners needs additional study.

The Commission supports the concept of allowing the property owner to review, certify, and return their individual property tax assessment form. The Commission approved the recommendation 17-0.

WITNESS LIST

David Bottorff, Association of Indiana Counties

Matt Brooks, Association of Indiana Counties

Steve Buschmann, Indiana Township Association

Katrina Hall, Farm Bureau

William Pipher, Trustee/Assessor, Bloomfield Township of LaGrange County

Paul Ricketts, Assessor, Lawrence Township of Marion County

Judy Sharp, Monroe County Assessor

Rep. Peggy Welch, Member of the Commission

Jeff Wuensch, Lincoln Institute of Land Policy

Linda Williams, Trustee/Assessor, Adams Township of Hamilton County

Travis Worl, Association of Indiana Counties